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United States of America
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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Criminal Case No. 08CR2033-BTM
11)
Plaintiff,)
12)
v.) **STIPULATION OF FACT AND JOINT**
13) **MOTION FOR RELEASE OF MATERIAL**
DIANA NATIVIDAD HARO,) **WITNESS AND ORDER THEREON**
14)
Defendant.)
15

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff,
17 UNITED STATES OF AMERICA, by and through its counsel, Karen P.
18 Hewitt, United States Attorney, and Douglas Keehn, Assistant United
19 States Attorney, and defendant DIANA NATIVIDAD HARO, by and through
20 and with the advice and consent of defense counsel, Candis
21 Mitchell, Federal Defenders of San Diego, Inc., that:

22 1. Defendant agrees to plead guilty to a one-count
23 Superseding Information charging defendant with a non-mandatory
24 minimum count of Transportation of Illegal Aliens, in violation of
25 8 U.S.C. §1324(a)(1)(A)(ii).

26 2. Defendant acknowledges receipt of a plea agreement in
27 this case and agrees to provide the signed, original plea agreement
28 to the Government not later than July __, 2008 before the
disposition date set by the Court.

1 3. Defendant agrees to plead guilty to the charge pursuant
2 to the plea agreement on or before July 31, 2008.

3 4. The material witnesses in this case, Gabino Alvaro
4 Martinez-Juarez, Roberto Carlos Romero-Cordova, and Sarafin Vargas-
5 Medel:

6 a. Are aliens with no lawful right to enter or remain
7 in the United States;

8 b. Entered or attempted to enter the United States
9 illegally on or about May 25, 2008;

10 c. Were found in a vehicle driven by Defendant and
11 Defendant knew or acted in reckless disregard of the fact that the
12 material witnesses were aliens with no lawful right to enter or
13 remain in the United States;

14 d. Were paying or having others pay on their behalf
15 between approximately \$2,000 and \$3,500 to others to be brought
16 into the United States illegally and/or transported illegally to
17 their destinations therein;

18 e. Defendant knew or acted in reckless disregard of the
19 fact that Gabino Martinez-Juarez, Roberto Carlos Romero-Cordova,
20 and Sarafin Vargas-Medel were aliens with no lawful right to enter
21 or remain in the United States; and,

22 f. Gabino Martinez-Juarez, Roberto Carlos Romero-
23 Cordova, and Sarafin Vargas-Medel may be released and remanded
24 immediately to the Department of Homeland Security for return to
25 their country or countries of origin.

26 5. After the material witnesses are ordered released by the
27 Court pursuant to this stipulation and joint motion, if Defendant
28 does not plead guilty to the charge set forth above, for any

1 reason, or thereafter withdraws his guilty plea to that charge,
2 Defendant agrees that in any proceeding, including, but not limited
3 to, motion hearings, trial, sentencing, appeal or collateral
4 attack, that:

5 a. The stipulated facts set forth in paragraph 4 above
6 shall be admitted as substantive evidence;

7 b. The United States may elicit hearsay testimony from
8 arresting agents regarding any statements made by the material
9 witnesses provided in discovery, and such testimony shall be
10 admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as
11 statements against interest of an unavailable witness; and,

12 c. Understanding that under Crawford v. Washington,
13 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not
14 admissible against a defendant unless that defendant confronted and
15 cross-examined the witness(es) who made the "testimonial" hearsay
16 statements, Defendant waives the right to confront and cross-
17 examine the material witness(es) in this case.

18 6. By signing this stipulation and joint motion, Defendant
19 certifies that Defendant has read it (or that it has been read to
20 Defendant in Defendant's native language). Defendant certifies
21 further that Defendant has discussed the terms of this stipulation
22 and joint motion with defense counsel and fully understands its
23 meaning and effect.

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1 Based on the foregoing, the parties jointly move the
2 stipulation into evidence and for the immediate release and remand
3 of the above-named material witness to the Department of Homeland
4 Security for return to his country of origin.

5 It is STIPULATED AND AGREED this date.

6 Respectfully submitted,

7 KAREN P. HEWITT
8 United States Attorney

9 Dated: 17 July 2008

10 
Douglas Keehn
Assistant United States Attorney

11 Dated: 11 July 2008

12 Candis Mitchell
Candis Mitchell
13 Defense Counsel for Defendant,
Diana Natividad Haro

14 Dated: 11 July 2008

15 
Diana Natividad Haro
16 Defendant

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O R D E R

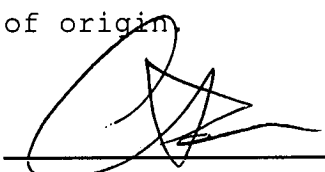
Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness be released and remanded forthwith to the Department of Homeland Security for return to his country of origin.

SO ORDERED.

Dated: 7/17/08



United States District Judge